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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,924	04/06/2001	Leon Atkinson	LED001	3619

7590

12/16/2002

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EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 12/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,924

Applicant(s)

ATKINSON ET AL.

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-13, 15-17, 21-27 and 29 is/are rejected.
- 7) ☒ Claim(s) 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 10/8/02 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 9, 11, 12, 15, 16, 25, 26 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brecher (3,826,359). Brecher discloses, in fig. 4, a package comprising a container body 10&10'; a garment P(a pair of pantyhose, see col. 3 line 7) being compressed within a storage chamber of the body; a buffer material (the lover cover 14) separate from the garment, arranged upon the garment within the storage chamber; a cover member 16 extending across the open end of the storage chamber, and a cap member 12 mounted to the open end over the cover member.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 5-7, 9, 10-13 and 15-17, and 21-27 and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Kirland (6,006,945) in view of O'Leary (4,802,577) and further in view of Diaz (5,193,163) Kirland discloses, in fig. 1 and col. 5, lines 45-50, a package comprising a body 12, a garment 22 or hosiery (see col.5, line 48), a cover member 14 having a pull- tab element 26. O'Leary discloses, in fig. 1, a package having a buffer 20 constituted by paper, and Diaz teaches a cap for a pull-tab container.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Kirland package with a paper buffer, as taught by O'Leary, and with a cap, as taught by Diaz, in order to provide more protection covers for the material stored inside the package.

5. Claims 1-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis (6,085,930). Curtis discloses, in fig. 2, a package comprising a container body 4, a buffer 12, a cover 2 having a plurality of openings 16, and the cover being convex in shape. Curtis does not disclose a garment or hosiery compressed within the container body. Official notice is taken that it is well known in the art to put a garment or hosiery in a package. It is submitted that it would have been obvious to one skilled in the art to put a garment in the Curtis package in order the garment or hosiery to be packed for a purposed use.

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Response to Arguments

6. Applicant's arguments filed 10-8-02 have been fully considered but they are not persuasive.

In response to applicant's argument that the packaging in Brecher and the arrangement is quite different from that disclosed and claimed in the present application, and examiner has taken an extremely broad interpretation of the arrangement in Brecher in rejecting the claims in this application. For example claim 1 of the present application requires the incorporation of a buffer material. However, that is not found convincing because although Brecher discloses, in figs. 3 and 4, a structure comprising combination of two packages, the structure defines all limitations as claimed, see above rejection, and the lower cover 14 can be reasonably considered as a buffer material, as claimed, separate from the garment, arranged upon the garment within the storage chamber. Claim must be given their broadest reasonable interpretation during the patent examination as long as the interpretation consistent with the interpretation the those skilled in the art would reach. See MPEP 2111

In response to applicant's argument that it is not understood how any of the prior art arrangements are being applied since none of them are even directed to packaging a garment, that is, the Kirkland, O'Leary and Curtis patents are well outside the field of packaging garments. However, that is found not convincing because Kirland discloses, in fig. 1 and col. 5, lines 45-50, a package comprising a body 12, a garment 22 or hosiery (see col.5, line 48), a cover member 14 having a pull- tab element 26. O'Leary discloses, in fig. 1, a package having a buffer 20

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constituted by paper, and Diaz teaches a cap for a pull-tab container. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Kirland package with a paper buffer, as taught by O'Leary, and with a cap, as taught by Diaz, in order to provide more protection covers for the material or garment stored inside the package.

Curtis discloses, in fig. 2, a package comprising a container body 4, a buffer 12, a cover 2 having a plurality of openings 16, and the cover being convex in shape. Although Curtis does not disclose the package for a garment or hosiery compressed within the container body. Official notice is taken that it is well known in the art to put a garment or hosiery in a package. it would have been obvious to one skilled in the art to put a garment or hosiery in the Curtis package in order the garment or hosiery to be packed for a purposed use.

Allowable Subject Matter

7. Claims ¹⁸18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Giberstein teaches a package for hosiery.

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Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

December 3, 2002



Stephen K. Cronin
Primary Examiner